



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

October 13, 1999

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Larry Derryberry, Esquire
Derryberry, Quigley, Solomon & Naifeh
4800 North Lincoln Boulevard
Oklahoma City, OK 73105

RE: MUR 4818
The Honorable Gene Stipe

Dear Mr. Derryberry:

On March 30, 1999, the Federal Election Commission notified Gene Stipe ("your client"), of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint, denoted MUR 4818, was forwarded to him at that time.

Upon further review of the allegations contained in the complaint, and information provided by your client, the Commission, on October 6, 1999, found that there is reason to believe that he knowingly and willfully violated 2 U.S.C. §§ 441a(a)(1)(A) and 441f, provisions of the Act.

The Factual and Legal Analysis, which formed a basis for the Commission's findings, is attached for your information.

All responses to the enclosed Subpoena to Produce Documents and Order to Submit Written Answers must be submitted to the General Counsel's Office within 30 days of your receipt of this letter. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Any additional materials or statements you wish to submit should accompany the response to the Order and Subpoena. Any additional statements should also be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that violations have occurred and proceed with conciliation.

MUR 4818

Larry Derryberry, Esq.

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If your client is interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of these matters or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of these matters. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

These matters will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public. If you have any questions or would like to discuss this matter, please contact Xavier K. McDonnell, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,



Scott E. Thomas
Chairman

Enclosures
Order and Subpoenas
Factual and Legal Analyses

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SUBPOENA TO PRODUCE DOCUMENTS
ORDER TO SUBMIT WRITTEN ANSWERS

TO: Gene Stipe, Esquire

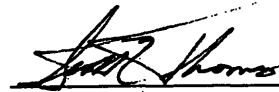
c/o Larry Derryberry, Esquire
Derryberry, Quigley, Solomon & Naifeh
4800 North Lincoln Boulevard
Oklahoma City, OK 73105

Pursuant to 2 U.S.C. § 437d(a)(1) and (3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order and Subpoenas you to produce the documents requested on the attachment to this Subpoena. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

Such answers must be submitted under oath and must be forwarded to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, along with the requested documents within 30 days of receipt of this Order and Subpoena.

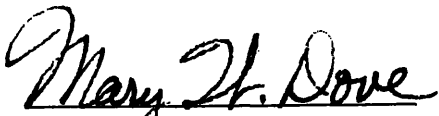
WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his
hand in Washington, D.C. on this *12th* day of *October*, 1999.

For the Commission,



Scott E. Thomas
Chairman

ATTEST:



Mary W. Dove
Secretary to the Commission

Attachments

Instructions and Definitions

Questions and Document Requests

21-04-406-0167

INSTRUCTIONS

In answering this Subpoena to Produce Documents and Order to Submit Written Answers, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each response is to be given separately and independently, and is to repeat verbatim the interrogatory or document request to which it is responding. Unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories or requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

Unless otherwise indicated, the following interrogatories and document requests shall refer to the time period from January 1, 1998 to the present.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

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DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" or "your" shall mean the named respondent in this action to whom these discovery requests are addressed, including all officers; employees, whether paid or unpaid; supervisors; volunteers; agents or persons otherwise working on behalf of or at the request of the named respondent; co-workers; subordinates; staff or attorneys thereof.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers, records and magnetic or electronic media of every type in your possession, custody, or control, or known by you to exist. The term document includes but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained. If a document request calls for a document that is maintained on or in a magnetic, optical or electronic medium (for example, but not limited to computer tape, diskette, or CD-ROM), provide both "hard" (i.e., paper) and "soft" (i.e., in the magnetic or electronic medium) copies, including drafts, and identify the name (e.g., WordPerfect, Microsoft Word for Windows, Pro Write, etc.) and version numbers by which the document(s) will be most easily retrieved.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document, the author of the document, and all recipients of the document (including all persons, other than the primary recipient(s) of the document, who received copies, such as "cc" and "bcc" recipients).

"Identify" with respect to a natural person shall mean state the full name, the most recent business and residence addresses and the telephone numbers of the person, the present occupation or position of such person, the social security number of the person, and the nature of the connection or association that person has to any party in this proceeding.

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If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed distinctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and may otherwise be construed to be out of their scope.

QUESTIONS AND DOCUMENT REQUESTS

1. State whether you had any role(s) and/or title(s) in Walt Roberts 1998 Congressional campaign. If so, briefly describe that role and/or identify that title.

2. Disclosure reports indicate that during 1998 you contributed \$1,000 to Walt Roberts' primary election, \$1,000 to the runoff election and \$1,000 to the general election.

State whether you provided any other funds to Walt Roberts or Walt Roberts 1998 Congressional campaign during 1998. If so, with respect to each payment:

- a. state the amount;
- b. state the date when you made the payment;
- c. state the manner in which the payment was made, e.g. , check, money order, cash;
- d. if the payment was a loan, provide all the terms of the loan, e.g., when payment was due, rate of interest, whether there was collateral;
- e. state what were you informed the money was to be used for;
- f. state whether you had any discussion with Walt Roberts that the payment was to be used -- directly or indirectly--- in connection with his 1998 Congressional campaign.
- g. identify all persons involved in obtaining and providing the payment (including any involved in suggesting, arranging or soliciting it);
- h. if the payment was a loan, state whether the loan was repaid, and if so, state the date and amount of such repayment;
- i. identify and produce all documents related to the payment, including but not limited to any written agreement, or instruments related to or evidencing the loan or the proceeds, bank account statements or deposit slips, checks, check registers, check ledgers, correspondence, memoranda.

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3. State whether you co-signed or guaranteed any loan(s) for Walt Roberts. If so, with respect to each loan, state:

- a. the amount;
- b. the date it was made;
- c. the purpose;
- d. whether it has been repaid;
- e. identify and produce all documents related to such loan, including but not limited to any written agreement, or instruments related to or evidencing the loan or the proceeds, checks, correspondence, memoranda.

4. State whether you and/or Agnes Stipe have ever co-signed, or acted as guarantors of a mortgage on any property owned by and/or with Walt Roberts. If so:

- a. identify such property;
- b. identify all persons who had title to it from 1998 to the present;
- c. state whether you still have an interest in such property and/or are still a mortgagor or guarantor;
- d. identify and produce documents related to the mortgage(s), including but not limited to copies of the title to the property, the loan application, the HUD-1 statement and the mortgage instruments.

5. It was reported that during 1998, Walt Roberts obtained a loan of between \$65,000 and \$67,500 from "a friend" whom he refused to identify. See Complaint at Exhibits 1-3. State whether you are the source of this loan. If not, identify the source and state whether you were involved in arranging, soliciting or accepting the loan. Identify and produce all documents related to that loan.

6. The disclosure reports of Walt Roberts for Congress ("Roberts campaign") indicate that it received contributions from the following persons who reportedly held positions with the Stipe Law Firm ("contributors"):

WALT ROBERTS FOR CONGRESS					
NAME	TITLE	DATE	PRIMARY	RUN-OFF	GENERAL
Barnes, Ginger	Admin. Asst.	10/17/98			\$500.00
Benson, Jamie	Secretary	3/28/98	\$1,000.00		
Benson, Jamie	Self	8/14/98		\$990.00	
Dusenberry, Shelly	Paralegal	8/14/98		\$950.00	
Dusenberry, Shelly	Self	10/17/98			\$300.00
Ervin, Gloria	Accountant	8/18/98		\$990.00	
Ervin, Gloria	Inspector	8/17/98	\$980.00		
Montgomery, Cynthia	Secretary	3/31/98	\$1,000.00		
Montgomery, Cynthia	Paralegal	8/17/98		\$970.00	
Spears, Charlene	Management	3/30/98	\$1,000.00		
Spears, Charlene	Admin. Asst.	8/14/98		\$950.00	
Thetford, Dana	Paralegal	9/3/98		\$950.00	
Thetford, Dana	Paralegal	10/29/98			\$1,000.00
Tumer, Deborah	Paralegal	8/14/98	\$950.00		
		TOTALS	\$4,930.00	\$5,800.00	\$1,800.00

a. state whether you solicited, requested or suggested such contributions be made or accepted or collected them. If so, state what your involvement was, e.g., soliciting, collecting, etc.;

b. state whether any of the contributors received from you and/or the Stipe Law Firm (or any partner, attorney, employee or consultant of the law firm), any payment, reimbursement, form of compensation or gift of any kind in connection with such contributions (including but not limited to cash, check, bonus, salary enhancement, expense reimbursement, compensatory time, or a gift of any kind). If so:

i. state the date and amount of each payment/form of compensation/gift;

ii. identify who made/gave each payment/form of compensation/gift and who authorized and/or approved it;

iii. identify and produce all documents related to such payment(s), form(s) of compensation or gift, including but not limited to checks, check registers, money orders, bank statements, correspondence, memoranda;

iv. Identify and produce all documents relating to any disbursements-- other than regularly-scheduled, identical salary payments--made during 1998 to the contributors, (e.g. employee reimbursement forms, check requests, disbursement journals, internal office memoranda, original checks, check registers, bank statements).

7. State whether you and/or the Stipe Law Firm (or any partner, attorney, employee or consultant of the law firm) provided any form of payment, reimbursement or compensation (including but not limited to cash, check, bonus, salary enhancement, expense reimbursement, compensatory time, or a gift of any kind) to any Stipe Law Firm employee, attorney, partner, consultant, or family member of such employee, attorney, partner or consultant, in connection with any contributions made to a federal candidate or federal political committee. If so:

- a. state the date and amount of each payment/form of compensation;
- b. identify who made each payment/form of compensation and who authorized and/or approved it;
- c. identify the employee, consultant or family member who reportedly made the contribution, which candidate or committee it was made to and the date that it was made;
- d. identify and produce all documents related to such payment(s)/form(s) of compensation including but not limited to checks, check registers, money orders, bank statements, correspondence, memoranda, notes.

8. State whether you were involved in any cattle purchases and/or sales with Walt Roberts during 1998. If so, briefly describe such transactions and produce all related documentation.

9. It was reported that during 1998, there was an auction at which Walt Roberts sold his own artwork. See Complaint at Exhibit 5. State whether you attended this auction. If so:

- a. state whether there was a fee to attend, and if so, state how much;
- b. state how you were informed about the auction, e.g., telephone, letter, advertisement;

c. state whether you purchased any of the artwork, and if so, how much you paid;

d. identify and produce all documents related to the auction, including but not limited to any invitation, flyer, receipts, invoice, memoranda, notes, list of attendees or purchasers, check(s), check register(s).

10. On September 1, 1998, Walt Roberts obtained a \$50,000 loan from McAlester Industrial Credit, Company, Inc. ("McAlester"). State whether you had any role in his obtaining that loan, and specifically:

a. state whether you arranged, suggested, or recommended that McAlester be the source of that loan;

b. state whether you co-signed or guaranteed that loan;

c. identify and produce all documents related to the loan from McAlester, including but not limited to agreements, checks or money orders (front and back), bank statements evidencing the receipt of the funds, checks, check registers, check ledgers, appraisals, loan applications, correspondence or memoranda.

11. State whether the Roberts campaign occupied any office space at the Stipe Law Firm. If so:

a. state the specific location and address of the office space;

b. state the time frame when it was occupied;

c. state the amount of space occupied, i.e., square footage, number of rooms;

d. state the amount which Walt Roberts for Congress paid to occupy that office space;

e. identify and produce all documents related to the use of such space, including but not limited to contracts, agreements, correspondence, memoranda, notes, invoices, checks, check registers.

FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Gene Stipe

RE: MUR 4818

I. GENERATION OF MATTER

This matter was generated by a complaint filed by Senators Don Nickles and James M. Inhofe, and Representatives Tom Coburn, Ernest Istook, Jr., Steve Largent, Frank D. Lucas, Wes W. Watkins and J.C. Watts, Jr., and their respective campaign committees (collectively "complainants"). The complaint alleges that an unknown source loaned Walt Roberts ("candidate"), his authorized committee, Walt Roberts for Congress Committee, and its treasurer ("Roberts campaign" or "committee"), approximately \$67,500 that was loaned to his 1998 Congressional campaign. The attachments to the complaint suggest that the person who contributed the funds was Gene Stipe. It also appears that contributions reportedly made by employees or consultants of the Stipe Law Firm may have been reimbursed in violation of 2 U.S.C. §§ 441f and 441a(a).

II. APPLICABLE LAW

The Federal Election Campaign Act of 1971, as amended (the "Act"), limits the amount that persons other than multicandidate committees may contribute to any candidate for federal office to \$1,000 per election. 2 U.S.C. § 441a(a)(1)(A). Candidates and political committees are prohibited from knowingly accepting contributions in excess of the limitations at Section 441a.

2 U.S.C. § 441a(f). Candidates for Congress may make unlimited expenditures from their "personal funds." 11 C.F.R. § 110.10(a).¹

The term "contribution" includes any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purposes of influencing a federal election. 2 U.S.C. § 431(8)(A)(i). The term "anything of value" includes all in-kind contributions and providing any goods or services without charge, or at a charge which is less than the usual and normal charge. 11 C.F.R. § 100.7(a)(1)(iii)(A). The "usual and normal" charge is the price of the goods in the market from which they ordinarily would have been purchased at the time of the contribution, i.e., the fair market value. 11 C.F.R. § 100.7(a)(1)(iii)(B); *see also* Advisory Opinions ("AO") 1995-24, 1995-8, 1991-10, n. 1, 1984-60.

The Act provides that no person shall make a contribution in the name of another person or knowingly permit his or her name to be used to effect such a contribution and no person shall knowingly accept a contribution made by one person in the name of another person. 2 U.S.C. § 441f; 11 C.F.R. § 110.4(b).

The Act provides that the Commission may find that violations are knowing and willful. 2 U.S.C. § 437g. The knowing and willful standard requires knowledge that one is violating the law. *Federal Election Commission v. John A. Dramesi for Congress Committee*, 640 F. Supp. 985 (D. N.J. 1986). An inference of a knowing and willful violation may be drawn "from the

¹ The Commission's regulations define "personal funds" as: (1) "Any assets which, under the applicable state law at the time he or she became a candidate, the candidate had legal right of access to or control over, and with respect to which the candidate had either: (i) Legal and rightful title, or (ii) An equitable interest"; or (2) Salary or other earned income from bona fide employment, dividends and proceeds from the sale of the candidate's stocks or other investments, bequests to the candidate; income from trusts established before candidacy; income from trusts established after candidacy of which the candidate is a beneficiary; gifts of a personal nature which had been customarily received prior to candidacy; proceeds from lotteries and similar legal games of chance. 11 C.F.R. § 110.10(b)(1) and (2). A candidate may also use a portion of assets jointly owned with his or her spouse, as provided in 11 C.F.R. § 110.10(b)(3).

defendants' elaborate scheme for disguising" their actions and that they "deliberately conveyed information that they knew to be false to the Federal Election Commission." *United States v. Hopkins*, 916 F.2d 207, 214-215 (5th Cir. 1990). "It has long been recognized that 'efforts at concealment [may] be reasonably explainable only in terms of motivation to evade' lawful obligations." *Id.* at 214, *quoting Ingram v. United States*, 360 U.S. 672, 679 (1959).

III. BACKGROUND/ALLEGATIONS

Walt Roberts garnered the most votes in the primary election held on August 25, 1998, and he won the runoff election held on September 15, 1998. Mr. Roberts lost the general election on November 3, 1998 to Representative Wes Watkins.

The complainants point to information in the public record suggesting a pattern of illegal fundraising. During 1998, Walt Roberts reportedly loaned or contributed approximately \$180,000 to the Roberts campaign. The attachments to the complaint question how Mr. Roberts, with limited income and assets, could make loans of these amounts. Complaint at Exhibits 1 and 3.² They urge the Commission to "fully investigate the campaign activities" of the Roberts campaign "with particular emphasis upon the unreported, excessive and unlawful third-party contributions." Complaint at page 5. The complaint focuses on the \$67,500 loan made to the Roberts campaign on August 5, 1998.

According to news reports, when questioned about the source of the \$67,500 loan to his campaign, the candidate claimed that he borrowed funds from a friend, purchased cattle with the funds, promptly sold the cattle without making any profit and then loaned the proceeds to his

² The candidate's Ethics in Government Act ("EIGA") statement, dated July 6, 1998, and his amended statement, dated October 9, 1998, disclose income of \$17,251 for the covered months of 1998 and \$64,862 for all of 1997. On his EIGA statements, the candidate's total assets consisted of an "Auction Building" valued at between

campaign. The candidate refused to identify the friend. It appears that the amount which the candidate borrowed from the secret friend was \$67,500, the same amount that he loaned to his campaign on August 5, 1998.

During the campaign, the candidate reportedly stated that the loan from the undisclosed friend was a "handshake deal with no paperwork and no payments for a year." Complaint at Exhibit 2. News articles suggest that the friend may have been State Senator Gene Stipe who is said to be a "major backer" of Roberts.³ Complaint at Exhibits 1 and 5. Stipe is characterized as Roberts' "main fund-raiser" and whose law office "doubles as Roberts' campaign headquarters." Complaint at Exhibit 1.

In support of the allegations about the loan and cattle purchases and sales, the complaint points to the conflicting or at least differing assertions which the candidate reportedly made about the transactions. At one point, the candidate reportedly claimed that he received the loan from the friend on August 1, 1998. Complaint at Exhibit 1. As news articles point out, since the loan was made to the campaign on August 5, the alleged cattle purchases and sales would have occurred almost immediately. Another report indicates that the candidate claimed that he received the loan from the unknown source about sixty days before selling the cattle, which, the article concludes, would mean that he borrowed it in late May or early June. Complaint at Exhibit 5. The complaint and news articles point out that neither the loan nor the cattle were

\$50,001 and \$100,000 (but with a mortgage of between the same listed amounts) and horses valued at \$15,001 to \$50,000.

³ Mr. Stipe, attorneys from the Stipe Law Firm and what appear to be their spouses contributed approximately \$28,000 to the Roberts campaign. As discussed in detail below, secretaries, paralegals and other support staff of the Stipe Law Firm reportedly contributed \$12,530 in individual contributions of close to \$1,000 each. Mr. Roberts also reported on his EIGA statement that he received compensation from the Stipe Law Firm for consulting services.

reported on the candidate's Ethics in Government Act ("EIGA") statement, which was signed July 6, 1998. In response to questions about this, the candidate, at one point reportedly claimed that the cattle was left off his EIGA statement by accident, but a day later the candidate is claimed to have asserted that he did not yet own the cattle at the time the form was filed.

Complaint at Exhibit 3.

IV. ANALYSIS Procedural Defense

Mr. Stipe generally denies violations of the Act, but does not address or specifically contest the allegations about the sources of the loans in question. Instead, he mistakenly asserts that the complaint does not comply with subsections 111.4(c) and d(1) and (2) and that the alleged failure to comply with those subsections requires dismissal of the complaint.

Contrary to the respondent's assertions, the complaint substantially provides the information sought by subsections 111.4(c) and (d)(1) and (3). The complaint contains specific allegations about an undisclosed friend who loaned the candidate \$67,500 and a news article attached to the complaint indicates that Mr. Stipe, the reported chief fund-raiser for the campaign, may be that source. The complaint also makes clear that the allegations are based on statements purportedly made by the candidate taken from news reports and on the candidate's EIGA statement. It is thus evident that the allegations are based upon information and belief rather than personal knowledge. The complaint also contains a clear and concise recitation of facts describing violations of the Act and regulations, and thus meets the criteria of subsection 111.4(c) and (d).

Moreover, the assertion that dismissal would be required if the complaint failed to provide the information listed in the above-discussed subsections is in error. Dismissal is only

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required if a complaint fails to comply with the criteria set out in 2 U.S.C. § 437g(a)(1) and 11 C.F.R. § 111.4(b). The complaint in this matter clearly meets those requirements as the complainants are identified and it is signed and sworn to in the presence of a notary. Unlike a failure to comply with Section 437g(a)(1) or subpart b of the Commission's regulations, there is no requirement that a complaint be dismissed if it fails to provide all the information set forth in subparts (c) and (d). This distinction was made clear in the Explanation and Justification which the Commission included when transmitting Part 111.4 to Congress in 1980. There, the Commission stated that subsection (b) "sets forth the statutory requirements with which a complaint must comply in order for the Commission to act upon it," while subsection (d) "should be complied with" and "may" be a basis for the Commission "to take no action on a complaint" if it fails to provide sufficient information. 45 Fed. Reg. 15088, March 7, 1980; *see also* MURs 3667, 3110, 2782. As discussed above, the complaint meets the statutory requirements and provides information sufficient for the Commission to make the necessary initial determinations in this matter, and thus should not be dismissed.

\$67,500 Loan

As the response to the complaint fails to address the allegations about the \$67,500 loan, we are left with the information in press accounts, which are mainly based upon the candidate's purported statements about the loan. As discussed in detail below, the information at hand strongly suggest the loan from the undisclosed source was taken by the candidate for the purpose of financing his campaign and was an excessive contribution. In particular, we discuss the timing of the loans, the secret nature of the loan from the friend, and the information indicating that the loan from the friend was not arms length and that, at best, the cattle transactions were

undertaken to make the initial loan from the friend have, or at least appear to have, a business purpose rather than a campaign-related purpose.

First, there is the short duration between when the loan from the undisclosed source was assertedly taken and the candidate loaned his "personal funds" to the campaign. Although the candidate reportedly made differing statements about when he received the loan from the unknown friend, in any case it was a relatively short time between the time the funds were loaned by the undisclosed friend and funds of the same or nearly the same amount were deposited into the campaign's account. Indeed, just five days after the campaign received the \$67,500 "candidate loan" on August 5, 1998, it reported making a payment of exactly \$67,500 to a consultant for a "media buy."

Second, the loan from the undisclosed source does not appear to have been an arms length business transaction. To begin with, the loan was from a "friend." And although this loan was a substantial sum—in fact exceeding the candidate's total annual income-- it was reportedly made only on a "handshake" (meaning no documentation) and --without any collateral.

As for the cattle transactions, while the candidate has revealed very little about them -- other than that the cattle were bought and sold almost immediately, and without any profit—it appears they were either: (a) undertaken based upon the mistaken assumption that such purchases and sales would actually convert the \$67,500 loan from the undisclosed source into the candidate's "personal funds"; (b) undertaken in an attempt to make the \$67,500 loan from the undisclosed friend appear to have a bona fide business purpose, thus enabling the candidate to pass the proceeds off as his "personal funds" or; (c) as suggested in the press, the cattle transactions never even occurred but were used to give the undisclosed loan the appearance of a business purpose.

Finally, and perhaps most telling, is the secret nature of the source of the loan. The candidate refused repeated requests to disclose to the press the name of the person who loaned him the funds. Although it is unclear exactly why the source was not revealed, given the totality of the information at hand, it is reasonable to infer that it may have been that the parties to the transaction knew that the true purpose of the loan was to assist Roberts' candidacy--not to undertake a business venture to purchase cattle. Therefore, to minimize or avoid answering questions about the purpose and nature of the loan, the parties agreed to keep the source secret.

In short, the information at hand suggests that the \$67,500 loan was an excessive contribution. Regarding the source of the loan, it appears that, as indicated in news reports attached to the complaint, it may have been Gene Stipe. Mr. Stipe was reportedly the candidate's major fund-raiser and prime political supporter, and had previously co-signed a mortgage on the candidate's behalf. Members of Mr. Stipe's law firm, both attorneys and support staff, and members of the Stipe family, contributed heavily to the campaign. Also as previously discussed, Mr. Stipe did not deny making the loan but essentially relies on the same procedural defense as the other respondents. Accordingly, in light of the information at hand, there is reason to believe that Gene Stipe violated Section 441a(a)(1)(A) by making the \$67,500 loan.

Contributions from Stipe Law Firm Personnel

The Roberts campaign was, according to news reports, operated in part from Mr. Stipe's law office, and Mr. Stipe was the candidate's mentor and chief fund-raiser. Complaint at Exhibit 1. The committee's disclosure reports indicate that numerous support staff of the Stipe Law Firm had reportedly donated substantial sums to the campaign. Specifically, eight members of

the law firm's support staff made the following contributions, totaling \$12,530:

WALT ROBERTS FOR CONGRESS					
CONTRIBUTIONS MADE BY STIPE LAW FIRM EMPLOYEES					
NAME	TITLE	DATE	PRIMARY	RUN-OFF	GENERAL
Barnes, Ginger	Admin. Asst.	10/17/98			\$500.00
Benson, Jamie	Secretary	3/28/98	\$1,000.00		
Benson, Jamie	Self	8/14/98		\$990.00	
Dusenberry, Shelly	Paralegal	8/14/98		\$950.00	
Dusenberry, Shelly	Self	10/17/98			\$300.00
Ervin, Gloria	Accountant	8/18/98		\$990.00	
Ervin, Gloria	Inspector	8/17/98	\$980.00		
Montgomery, Cynthia	Secretary	3/31/98	\$1,000.00		
Montgomery, Cynthia	Paralegal	8/17/98		\$970.00	
Spears, Charlene	Management	3/30/98	\$1,000.00		
Spears, Charlene	Admin. Asst.	8/14/98		\$950.00	
Thetford, Dana	Paralegal	9/3/98		\$950.00	
Thetford, Dana	Paralegal	10/29/98			\$1,000.00
Tumer, Deborah	Paralegal	8/14/98	\$950.00		
		TOTALS	\$4,930.00	\$5,800.00	\$1,800.00

Many of the above contributions were received within the period covered by Section 434(b)(6), but because they were in amounts just below the threshold, e.g., \$950, \$970, 48 hour notices, which might bring these contributions to public attention prior to the election, were not required. These contributions from Stipe Law Firm support staff, and the fact that they fell just short of the 48 hour reporting threshold, were discussed in a press report that appeared during the campaign. Complaint at Exhibit 6.

The above contributions, each close to \$1,000, were of very sizable amounts to be given by support staff. Many of the contributions were reportedly received on the same dates. In light of the facts at hand, specifically the large amounts contributed by this support staff, that the campaign allegedly operated from the Stipe Law Firm, Mr. Stipe's substantial involvement in Roberts' campaign efforts and that the amounts were often just below the 48 hour reporting

threshold, it appears that these contributions may have been made by Mr. Stipe in the names of support staff. Indeed, these appear to be more evidence of "unlawful third party contributions" which the complainants urge the Commission to investigate. Complaint at page 5. Accordingly, there is reason to believe that Gene Stipe violated 2 U.S.C. §§ 441f and 441a(a)(1)(A).

The respondent appears to have engaged in a deliberate attempt to circumvent the Act's limitations and reporting requirements. First, there is the manner in which he kept from public disclosure information about the source of the \$67,500 loan. One inference that can be drawn from the way in which the transaction was kept secret is that the respondents knew that the various transactions were impermissible. And then there are the numerous contributions of close to \$1,000 from support staff of the law firm of the campaign's alleged chief fund-raiser, that may have been reimbursed. As the courts have recognized, "efforts at concealment [may] be reasonably explainable only in terms of motivation to evade' lawful obligations." *United States v. Hopkins*, 916 F.2d at 214. Given the forgoing, it appears that the violations were knowing and willful. Accordingly, there is reason to believe that Gene Stipe knowingly and willfully violated 2 U.S.C. §§ 441a(a)(1)(A) and 441f.